

HOUSE No. 3233

The Commonwealth of Massachusetts

PRESENTED BY:

Denis E. Guyer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Protect Children in Vehicles from Secondhand Smoke.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Denis E. Guyer	2nd Berkshire
William N. Brownsberger	24th Middlesex
Denise Provost	27th Middlesex
Frank I. Smizik	15th Norfolk
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Angelo J. Puppolo, Jr.	12th Hampden
Kay Khan	11th Middlesex
Thomas M. Stanley	9th Middlesex
Paul McMurtry	11th Norfolk
Alice K. Wolf	25th Middlesex
Sean Garballey	23rd Middlesex
A. Stephen Tobin	2nd Norfolk
Ellen Story	3rd Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROTECT CHILDREN IN VEHICLES FROM SECONDHAND SMOKE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 7AA of Chapter 90 of the Massachusetts General Laws is hereby amended by adding the following subsection at the end thereof:

(1) No person or persons shall be allowed to smoke, as defined in Section 22, Chapter 270 of M.G.L., in a motor vehicle when a person who has not attained 18 years of age in that motor vehicle, regardless of whether the motor vehicle's windows are open.

An operator or passenger of a motor vehicle who violates the provisions of this subsection shall be subject to a fine of at least 100 dollars for each person who is under 18 years of age and who is in the motor vehicle. For each subsequent violation, the fine shall be increased by 100 dollars for each person who is under 18 years of age and who is in the motor vehicle. Any person who violates this act may have their fine waived by performing 5 hours of community service or by enrolling in a tobacco education/cessation program. The provisions of this section shall be enforced by law enforcement agencies when an operator of a motor vehicle or passenger is smoking in plain view with passengers who appear to be under 18 years of age. If a law enforcement office stops a vehicle for an apparent violation of this section, the officer shall determine whether anyone in the motor vehicle is under 18 years of age. A police office may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section. For a period of 90 days following the effective day of this act, any law enforcement official who stops a motorist solely because of smoking in a motor vehicle when a person who has not attained 18 years of age in that motor vehicle is present shall not issue a citation, but shall only issue a written or verbal warning.

A violation of this section shall not be used as evidence of contributory negligence in any civil action.

Any person who receives a citation for violating this section may contest such citation pursuant to section three of chapter ninety C. A violation of this section shall not be considered as a conviction of a moving

- 24 violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums
- 25 pursuant to section one hundred and thirteen B of chapter one hundred and seventy-five.